

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

UNITED STATES OF AMERICA,	)	CASE NO. 1:16-CR-00224
	)	
Plaintiff,	)	JUDGE GAUGHAN
	)	
vs.	)	
	)	
RADU MICLAUS, et al.	)	<b><u>DEFENDANT MICLAUS'</u></b>
	)	<b><u>SUPPLEMENTAL BRIEF ON</u></b>
Defendants.	)	<b><u>HEARSAY/CRAWFORD ISSUES</u></b>
	)	
	)	
	)	

Now comes Defendant Radu Miclaus (the "Defendant"), by and through counsel, and hereby respectfully submits the Defendant's combined brief:

1. In support of Defendant's previously filed motions and briefs on the hearsay/Crawford issues (collectively, the "Hearsay/Crawford Motion"); and
2. In Opposition to *United State's of America's Corrected Motion in Limine to Admit Out-of-Court Statements* (the "Government's Hearsay Motion").

In connection with both the Hearsay/Crawford Motion and the Government's Hearsay Motion, it is the Defendant's contention that this Court, prior to the trial in this matter, must examine a plethora of the 2,431 exhibits identified by the Defendant to

determine (A) whether the Federal Rules of Evidence permit the introduction of those exhibits, and event if the Federal Rules of Evidence may permit the introduction of those exhibits, (B) whether the Crawford Cases nevertheless exclude the introduction of those exhibits.

In that regard, the Defendant has sorted through the 2,431 exhibits<sup>1</sup> provided by the Government on January 3, 2019, and has sorted those documents into three (3) essential piles; to wit:

1. 282 Exhibits that the Defendant do not see as having any hearsay/Crawford issues - or exhibits with hearsay/Crawford issues to which Defendant for the time being Defendant has no current objection (see Exhibit A attached hereto); and
2. 338 Exhibits the Defendant may agree to if there are various portions of the exhibits redacted or modified (see Exhibit B attached hereto); and
3. 1,686 Exhibits that Defendant contents have hearsay/Crawford violations and to which Defendant objects in their entirety (see Exhibit C attached hereto).

In order to expedite as much as possible the task of sorting out the numerous hearsay/Crawford issues, counsel for the Defendant will attempt to schedule a series of meetings to sort out the redaction of those exhibits listed on Exhibit B.

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<sup>1</sup> That entire Exhibit List is attached hereto and made a part hereof as Exhibit D.

As to the exhibits listed on Exhibit C, the Defendant respectfully requests that this Court set the appropriate pretrial hearing in order to rule on each exhibit set forth on Exhibit C. It is expected that at this hearing the Government will attempt to rationalize why the specific exhibit at issue is not excluded as a hearsay/Crawford violation (per the previous BIO to the Hearsay/Crawford Motion and the Government's Hearsay Motion), and the Defendant will do the opposite. It is suggested that this Court do this in lieu of attempting to rule on each of the exhibits during the course of what the Government has already indicated will be a 3-week case-in-chief presentation.

Accordingly, after a thorough analysis of the exhibits listed on Exhibit C, the Defendant respectfully moves that this Court exclude all such exhibits as violating either or both the hearsay rules an/or the Crawford Cases. Further, in the event that the parties cannot work out redaction and/or modification of the exhibits listed on Exhibit B, that this Court do the same with the relevant documents listed on Exhibit B.

Respectfully submitted;

LIPSON O'SHEA LEGAL GROUP

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**PROOF OF SERVICE**

I hereby certify that a true copy of the foregoing has been filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic record. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic system.

S/Michael J. O'Shea  
Michael J. O'Shea